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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,845	08/07/2003	Fernando Stroppiana	670091.401	4367
500	7590	01/19/2006	EXAMINER	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC			EASHOO, MARK	
701 FIFTH AVE			ART UNIT	PAPER NUMBER
SUITE 6300				
SEATTLE, WA 98104-7092			1732	

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/637,845	STROPIANA, FERNANDO	
	Examiner Mark Eashoo, Ph.D.	Art Unit 1732	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1 ea.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION***Election/Restrictions***

Applicant's election of claim group I, claims 1-12, in the reply filed on 12-OCT-2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 13 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 12-OCT-2005.

Information Disclosure Statement

The information disclosure statement filed 07-AUG-2003 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Accordingly, it has been placed in the application file and the information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "i.e., according to a general configuration ()" is generally confusing because the metes and bounds cannot be clearly ascertained by the figure " () ".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stropplana (EP 0 968 804 A2) in view of Smith et al. (US Pat. 3,039,137) and Armstrong (GB 617,266).

Regarding claims 1,10, and 12: Stropplana teaches the basic claimed process of forming a strip of elastomeric material, comprising: feeding an extruder strips of vulcanizable elastomeric material having different colors (3:1-10); extruding the elastomeric material through a die plate and forming a granular material (Fig. 1, elements 2-5 and 3:5-20); forming the granular material into a gap wherein pressure is applied to form a strip of vulcanizable elastomeric material

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(Fig. 1, elements 7-11); and subjecting the strip to vulcanization (Fig. 1, element 12 and 4:1-15). It is intrinsic that the colored strips fed to the extruder are at least partially mixed in the extruder.

Stropplana does not teach mixing granular material and then gravity feeding the mixed material to a strip forming unit. However, Smith et al. teaches mixing granular material and then gravity feeding the mixed material to a strip forming unit (Figs. 1-2, elements 14, 16, and 18). Stropplana and Smith et al. are combinable because they are from the same field of endeavor, namely, forming variegated plastic sheeting. At the time of invention a person of ordinary skill in the art would have found it obvious to have mixed granular material and then gravity feed the mixed material to a strip forming unit, as taught by Smith et al., in the process of Stropplana, and would have been motivated to do so because Smith et al. suggests that such feeding means is an equivalent and alternative means to feed colored granules to a strip forming unit.

Stropplana does not teach using calendar rolls to form a strip. However, Armstrong teaches using calendar rolls to form a strip (Figs. 2, element 14). Armstrong also teaches that the feed rate to the calendar rolls is at a rate which maintains a bank of material at the nip/gap (1:45-60). Stropplana and Armstrong are combinable because they are from the same field of endeavor, namely, forming variegated plastic sheeting. At the time of invention a person of ordinary skill in the art would have found it obvious to have using calendar rolls to form a strip, as taught by Armstrong, in the process of Stropplana, and would have been motivated to do so because Armstrong suggests that calendar rolls are an equivalent and alternative means to shape colored granules into a strip.

Regarding claims 2 and 9: Stropplana teaches storing granular material (Fig. 1, element S). Furthermore, it is submitted that it is intrinsic, if not obvious, that the granular material reaches room temperature while in storage.

Regarding claims 3-8: Stropplana teaches that the fragmented/granulated material can have various morphologies (2:49-55) and sizes (3:5-15). As such it is submitted, absent a teaching of unexpected results, that the particular size and crescent shape of the instantly claimed granular material is obvious choice of a known granular shape as suggested by Stropplana.

Regarding claim 11: The examiner recognizes that the claimed processing temperature range is not substantially taught by the applied references. However, the reference(s) all teach the use of particular ingredients and therefore inherently place limits upon processing conditions. Since the instant claims are not limited to a specific material, it is submitted that it is well known in the molding art to optimize processing temperature depending upon the material being processed and would have found it obvious to do so using routine experimentation in order to form desired physical characteristics in the final molded product.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached PTO-892.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Eashoo, Ph.D.

Primary Examiner

Art Unit 1732

me

January 9, 2006

